UNITED
NATIONS

CERD

International Convention
on the Elimination
of all Forms of
Racial Discrimination

Distr.
GENERAL

CERD/C/258/Add.1
4 April 1995

ENGLISH
Original: SPANISH

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Eighth periodic reports of States parties due in 1994

Addendum

EL SALVADOR*

[20 December 1994]

* The present document contains the third, fourth, fifth, sixth, seventh and eighth periodic reports due on 30 December 1984, 1986, 1988, 1990, 1992 and 1994, respectively. For the initial and second periodic reports of El Salvador and the summary record of the meeting at which the Committee examined those reports, see documents CERD/C/86/Add.3 and CERD/C/SR.659.

The information submitted by El Salvador in accordance with the consolidated guidelines for the initial part of States party reports appears as core document HRI/CORE/1/Add.34.

GE.95-15950 (E)

Introduction

1. The Government of El Salvador presents its eighth periodic report on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, pursuant to article 9 of the Convention.

2. The Government wishes to state plainly and categorically that the population does not comprise definite groups with differing racial characteristics and that, consequently, there is no kind of discrimination on grounds of race in El Salvador; moreover, nationals of other countries enjoy all civil, economic, social and cultural rights, although there are naturally restrictions with regard to the enjoyment and exercise of political rights.

3. It is necessary to establish this point quite clearly, since, logically, the provisions of the Convention are based on the assumption of the existence of differing ethnic groups, a situation in which discrimination may exist on racial grounds.

4. The Government of El Salvador therefore submits this report in compliance with its obligation as a State party to the Convention in a form which relates, in particular, to the major principles of the constitutional and legal order regarding the non-acceptance of discrimination and the principles underlying the actions of the Salvadoran Government in both its internal and external policy, since it is very well known that a State and its institutions regulate particular situations when these first arise, revealing disturbing features and social distortions that may be inimical to the aim of achieving and preserving social peace and harmony.

5. The Government of El Salvador takes this opportunity to express its firm intention to establish and nurture a constructive dialogue with the international bodies monitoring compliance with the provisions and obligations set forth in the international human rights instruments to which it is a party.

I. GENERAL

6. The following are some basic data on the Republic of El Salvador:

Area	21 041 km^2
Total number of inhabitants	5 047 896
Inhabitants per km^2 (1985 statistics)	239
Urban population	2 105 638
Male	1 002 951
Female	1 102 687

Rural population	3 232 258
Male	1 630 132
Female	1 602 126
Children	1 943 525
Adolescents	596 330

Life expectancy 1985-1990

Total	60.15
Men	58.00
Women	66.50

The official language of El Salvador is Spanish.

7. El Salvador is situated in the south-west of the Central American Isthmus on the Pacific Coast and is the only country in the region that does not have a Caribbean coast.

8. El Salvador is in the torrid zone north of the equator, between 13°09' and 14°27' latitude north and 87°41' and 90°08' longitude west.

9. The territory over which El Salvador exercises complete jurisdiction and sovereignty includes, in addition to the mainland:

(a) The islands, islets and cays listed in the judgement of the Central American Court of Justice, delivered on 9 March 1917, which are also established as belonging to it by other sources of international law, as well as other islands, islets and cays which belong to it in accordance with international law;

(b) The territorial waters, and the common waters of the Gulf of Fonseca, which is a historic bay with the characteristics of a closed sea, and is governed by a regime defined by international law and by the judgement referred to above;

(c) The airspace, the subsoil and the corresponding continental and island shelf, as well as the sea, its subsoil and seabed to a distance of 200 nautical miles from the baseline, all in conformity with the rules of international law.

10. Salvadoran territory is bounded:

(a) To the west, by the Republic of Guatemala, in accordance with the Treaty of Territorial Limits, signed in Guatemala on 9 April 1938;

(b) To the north and east, partly by the Republic of Honduras in those sections delimited by the General Peace Treaty between the Republic of El Salvador and Honduras, signed in Lima, Peru, on 30 October 1980. As to the sections that are still to be delimited, the boundaries will be those to be determined in accordance with the Treaty or, where appropriate, in accordance with any measures adopted for the peaceful settlement of international disputes. In this connection, the International Court of Justice delivered its judgement on 11 September 1992, and El Salvador, in fulfilment of its international obligations and in conformity with international law, will respect it in every sense;

(c) On the remainder of the eastern border, by the Republics of Honduras and Nicaragua along the Gulf of Fonseca;

(d) To the south, by the Pacific Ocean.

History

11. The history of El Salvador dates back to the pre-Colombian era some 1,500 years B.C., as can be seen from Mayan remains in the west of the country. The first settlers were the Pokomans, Lencas and Chortis. They were followed by the Uluas and the Pipils, who settled in the western and central parts of the country about the middle of the eleventh century.

12. On 31 May 1522, the Spaniard, Andres Niño, headed an expedition which landed on Meanguera Island in the Gulf of Fonseca, the first part of Salvadoran territory to be visited by the Spaniards.

13. In June 1524, the Spanish captain Pedro de Alvarado launched a war to conquer the Pipil Indians in the land of Cuscatlán, which means "land of jewels and riches". After 17 days of bloody fighting, in which many Indians, including Prince Atlacatl, chieftain of Cuscatlán, lost their lives, Pedro de Alvarado, defeated and wounded in the left thigh, abandoned the fight and withdrew to Guatemala, ordering his brother Gonzalo to continue the conquest, and afterwards his cousin Diego de Alvarado, who founded the town of San Salvador, in April 1528, at a place called La Bermuda. In 1540, San Salvador was transferred to its present site and in September 1546 it was granted the status of a city by the emperors Charles V and Philip II of Spain.

14. In the years that followed, the country developed under Spanish domination, and by the end of the first decade of the nineteenth century, the Spanish colonies of Central America all wanted independence and autonomy.

15. The first proclamation of independence was made in San Salvador on 5 November 1811 by the leader of the independence movement, the priest, José Matías Delgado. After much internal fighting, the Bill of Independence of Central America was signed in the Palacio de los Capitanes in Guatemala, on 15 September 1821.

16. In the year independence was proclaimed, the Government was established in Guatemala City and it decided on the union of the Central American provinces with Mexico. El Salvador, however, again under the leadership of Father Delgado, opposed the annexation until, in 1823, the Mexican Empire fell

and the five Central American provinces agreed to separate from one another. These five provinces remained united under the so-called Federal Republic of Central America for some time, but they soon split up and formed the Republics of Guatemala, Honduras, El Salvador, Nicaragua and Costa Rica. However, the federalist feeling has never died and in recent years an effort has been made to attain this ideal.

17. On 12 June 1824, El Salvador promulgated its own Constitution, which was the first one to be drawn up in Central America.

18. Throughout the nineteenth century, political life in El Salvador was turbulent. Liberals and conservatives fought for power in a series of political intrigues and uprisings, a situation which often aggravated conflicts in the neighbouring States. The Salvadoran Governments of the twentieth century for the most part maintained order and peace in the country. Consequently, during the first 25 years of this century, the country achieved outstanding economic development, accompanied by notable improvements in communications and transport. Shortly afterwards, fresh internal difficulties arose and continued for some years, until the Government of General Maximiliano Hernández Martínez was established by force. He assumed the office of President in 1931 and held it until 1944, when he was deposed.

19. In 1948, a revolutionary movement overthrew the regime of Salvador Castaneda Castro. Colonel Oscar Osorio held power from 1950 to 1956, when he was succeeded by Colonel José María Lemus. In late 1960, Lemus was replaced by a leftist Junta that was overthrown in January of the following year and a more moderate joint civilian and military directorate took control of the country. In 1962, a new Constitution was promulgated and Lieutenant-Colonel Julio A. Rivera served as President of the Republic until 1967. He was succeeded by General Fidel Sánchez Hernández, who remained in office from 1967 to 1972. In 1972 Colonel Arturo Armando Melina became President. In 1977, General Carlos H. Romero was elected President. He was ousted in a coup on 15 October 1979 and succeeded by a Junta, which resigned in 1980, when a new one was formed. In 1982, elections were held for the Constituent Assembly, which decreed, ratified and proclaimed the 1983 Constitution of the Republic that currently governs the institutional life of the nation. In 1982 also, a Government of National Unity was formed with Dr. Alvaro Magaña as President. In June 1984, he handed over political power to José Napoleón Duarte, who remained in office until May 1989, when he was succeeded by Alfredo Felix Cristiani Burkard. In June 1994, the latter handed over power to the current President of the Republic, Armando Calderón Sol.

Economy

20. Agriculture is the mainstay of the country's economy and coffee is the principal source of foreign exchange. Other products include cotton, sugar-cane, cereals, vegetables, fruits and spices. The famous balsam, used in the manufacture of many pharmaceutical products and cosmetics, is also produced.

21. There are large industries: textiles, hides, pharmaceuticals, machinery, electrical and construction equipment, metal furniture and much more.

Technological development

22. Electricity is produced from natural resources by a national company at four hydroelectric plants and one geothermal plant.

23. The first electric lighting service was inaugurated in San Salvador on 17 November 1890, with a 62-kilowatt generator driven by an internal combustion engine.

24. In the area of telecommunications, advanced technology is used, including microwave systems, digital systems and artificial satellites. There are also telephone, telegraph, telex, fax systems, teleprocessing and data transmission networks and satellite television. Telephone calls may be made from any home to any part of the world.

25. The first telegraph service was inaugurated in San Salvador on 27 April 1870.

II. GENERAL POLITICAL STRUCTURE

Political organization

26. The life of the political institutions of El Salvador is governed by the Constitution which entered into force on 20 December 1983 and was elaborated by the Constituent Assembly elected by popular vote in 1982; it was amended in 1991 and 1992.

27. The promulgation of the present Constitution has brought about a remarkable change for the nation by placing the individual at the centre of State activity. Unlike the previous constitutional instruments, particularly the more recent ones of 1950 and 1962, the guiding principle of the present Constitution is protection of and respect for the individual and his dignity, with the appropriate safeguards for the rights inherent in that dignity, thereby showing the importance attached by the State to the pursuit of the major national objectives.

28. A cursory comparison will reveal this change. The Constitutions of 1950 and 1962 gave pride of place to the provisions on the State and the form of Government, citizenship, the electorate and political rights, and went on to set out the rules on the public authorities and other organs and the economic system; only then did they set out the rules on the rights and safeguards of the individual, the family, labour matters and social security, culture, public safety and social welfare. The 1983 Constitution, on the other hand, rests on philosophical and political foundations which set store on the individual and the aims which the State must accordingly endeavour to achieve. The Constitution thus begins by declaring in article 1 that "El Salvador recognizes the individual as the source and the object of the activity of the State, which is organized for the attainment of justice, judicial security, and the common good. In consequence, it is the duty of the State to ensure that the inhabitants of the Republic enjoy liberty, health, culture, economic well-being and social justice".

29. This humanist concept based on the human being, which has also been embodied in the preamble of the Constitution, provides the key to a proper interpretation of the whole text of the Constitution, and that self-same concept lends substance to the development of the political, economic, social and cultural programmes that the organs of the Government are required to implement.

30. This difference in normative structure compared with earlier Constitutions shows the legislature's concern to draw the attention of those in office to the respect and consideration that must always be displayed towards the individual and the safeguards which must be provided for his fundamental rights, since man and his life are of the utmost worth, while objects are only of instrumental value. The State must be at the service of man, thereby ruling out any system which tries to dehumanize him and subject him to any form of oppression or slavery.

31. In November 1991 and January 1992 the present Legislative Assembly ratified the reforms to the Constitution which had been adopted under earlier legislation. The merit of these constitutional amendments is twofold: first, they followed under the constitutional procedure specified in the Constitution itself in article 248, and second, the amendments deal with human rights, electoral matters, the Judiciary and the armed forces, the purpose being to establish or strengthen peace and to consolidate democracy. They have moreover been the subject of a national consensus. Details will be provided below on each of the amendments.

Political structure

32. El Salvador is a sovereign State. Sovereignty is vested in the people, who exercise it in the form and within the limits laid down in the Constitution. The State is unitary. The form of government is republican, democratic and representative.

33. The political system is pluralist and is reflected in political parties, which are the sole instrument for representation of the people in the Government. Their rules, organization and operation are governed by the principles of representative democracy. The existence of a single official party is incompatible with a democratic system and with the form of government established in the Constitution.

34. Public authority emanates from the people. The various branches of government exercise their powers independently, within their respective jurisdiction, as established by the Constitution and the law. The duties of the branches of government may not be delegated, but the various branches must cooperate with one another in performing State duties. The basic branches of the Government are the Legislature, the Executive and the Judiciary.

35. Government officials are the delegates of the people and have no powers greater than those expressly conferred on them by law.

36. For the purpose of political and administrative organization, the territory of the Republic is divided into departments, the number being established by the law; there are 14 at present.

Legislature

37. The function of legislating, in other words, of creating, amending, interpreting and repealing laws, is vested in El Salvador in the Legislative Assembly, a collegiate body consisting of deputies elected by the people by direct, secret and equal vote. The deputies represent the whole of the people and are not bound by mandatory terms of reference. They are inviolable and cannot be held liable at any time for the opinions they express or the votes they cast.

38. Deputies are elected for a term of three years and can be re-elected. Their term of office begins on 1 May of the year they are elected; in accordance with article 12 of the Electoral Code there are 84 deputies.

39. For the purposes of a decision, the vote of at least one half of the elected deputies plus one is required; since there are 84 deputies, the majority is 43. However, a number of decisions require a two-thirds majority, such as election of the Attorney-General of the Republic, the Prosecutor-General of the Republic and the Procurator for the Protection of Human Rights.

40. While in office, deputies may not occupy any paid public post throughout the period for which they have been elected, except for academic or cultural posts or those connected with professional social welfare services.

Executive

41. The Executive consists of the President and Vice-President of the Republic, the Ministers and Deputy Ministers of State and their subordinate officials. This branch of the Government acts in conformity with the provisions of the Constitution and of the Regulations of the Executive.

42. The conduct of public affairs is the responsibility of the Secretariats of State, which are assigned the various sectors of the administration. Each secretariat is headed by a minister, who acts in cooperation with one or more deputy ministers. During the present presidential term of office ministries and secretariats are as follows: Ministry of the Presidency, Ministry of Foreign Affairs, Ministry of Planning and Coordination of Economic and Social Development, Ministry of the Interior, Ministry of Justice, Ministry of Finance, Ministry for Economic Affairs, Ministry of Education, Ministry of Defence, Ministry of Labour and Social Insurance, Ministry of Agriculture, Ministry of Health and Social Welfare, Ministry of Works, National Secretariat for the Family, National Secretariat for Communications, Secretariat for National Reconstruction, Executive Secretariat for the Environment.

Judiciary

43. The Judiciary is the branch in which the Constitution has vested the exclusive power to adjudicate and to execute judicial decisions in constitutional, civil, criminal, commercial, labour, and agrarian matters, as well as administrative disputes; it is governed by an Organization Act that determines its structure and the way it operates.

44. Under the Act, the Supreme Court of Justice - which, together with the Courts of Appeal (or second-tier jurisdictions) and the lower courts, makes up the Judiciary - consists of 14 Supreme Court Justices, assigned to 4 Divisions: the Constitutional, Civil, Criminal and Administrative Disputes Divisions. The first consists of five specially elected justices and is headed by the President of the Court, who is at the same time President of the Judiciary.

45. The other three divisions consist of three justices each, designated by the Court itself from among the remaining members. The courts of second instance, which are courts of appeal, consist of two judges; the courts of first instance and the courts of the justices of the peace are single-judge courts. All of these judges are appointed by the Supreme Court of Justice from three candidates submitted in each case by the National Council of the Judicature. All the members of the Judiciary are independent in the discharge of their duties and subject exclusively to the Constitution and the law; nevertheless, they are empowered by the Constitution, in the cases in which they are called upon to adjudicate, to declare the inapplicability of any law or any measure taken by another branch of the Government on the grounds of a breach of constitutional provisions.

46. The Judiciary Organization Act lays down the organization of the courts, determines the functions of the President of the Judiciary, of the Supreme Court of Justice and its divisions, of the courts of appeal and of the lower courts, and also determines the duties of other judicial officials who do not exercise jurisdiction such as chiefs of section, registrars, chief clerks, legal assistants and so on. The Act also establishes the actual area covered by each court and its jurisdiction.

47. Under the Act, the Supreme Court of Justice has the following sections: Notarial Section, to monitor the functions of notaries; the Probity Section, to keep a check on the assets of public officials under the Law on the Illicit Enrichment of Public Officials and Employees; the Professional Investigation Section, to investigate the conduct of lawyers, notaries, law students empowered to defend or represent, bailiffs and other officials appointed by the court who are not members of the Judiciary, as well as the Publications Section, to issue the Revista Judicial, the information publication of the Supreme Court of Justice, also used in particular for laws and regulations relating to the Judiciary and academic works on legal subjects by national authors.

48. The Judiciary Organization Act also specifies the system of leave both for officials and for employees, whether with or without pay, on grounds of illness established by medical certificate. In an emergency, it also has medical personnel for the exclusive use of the courts.

49. Pursuant to the same Act, the Judiciary's funds have been used to establish the Forensic Medicine Institutes in the capital cities of the provinces or departments of the Republic, with medical staff specializing in forensic medicine and with the necessary equipment to run these institutions, for their work is of inestimable value in aiding the criminal courts in scientific investigations. In addition, the Department of Information on Detainees keeps a check on such persons in order to guarantee their rights

and to provide information to interested applicants. For these purposes, every State or municipal judicial or administrative authority or auxiliary body in the administration of justice or military or subordinate authorities must, within 24 hours, inform the Department of the detention of any person carried out on their own initiative or pursuant to an order by the competent authority.

III. PROVISIONS OF THE CONVENTION

50. El Salvador does not have any significant population groups possessing characteristics that clearly distinguish them from the population as a whole. There are therefore no records or statistical information relating to any such difference, and none such to be reported. The national population policy therefore does not take account of this factor.

51. The guiding principle of action by the State and by Governments, which, as representatives of the people, carry out the latter's sovereign will, is laid down in article 1 of the Constitution that has been in force since 20 December 1983, which date is subsequent to the submission of the previous report of El Salvador relating to the Convention. This principle is expressed in the article in the following terms:

> "El Salvador recognizes the human person as the basis and purpose of action by the State, which shall be organized for the achievement of justice, juridical security and the common good.
>
> It shall therefore be the duty of the State to ensure for the inhabitants of the Republic the enjoyment of freedom, health, culture, economic welfare and social justice".

52. Furthermore, article 2 provides as follows:

> "Everyone has the right to life, to physical and moral integrity, to liberty, to security, to work and to own property, and to be protected in maintaining and defending these rights.
>
> The right to honour, to personal and family privacy and to personal dignity shall be guaranteed.
>
> Compensation shall be provided, under the law, for moral prejudice".

53. Article 3 of the Constitution establishes the principle of equality by providing as follows:

> "All persons are equal before the law. No restrictions on the exercise of civil rights may be established that are based on differences of nationality, race, sex or religion.
>
> Hereditary offices or privileges shall not be recognized".

54. One restriction on the exercise and enjoyment of political rights that is allowed is the requirement of Salvadoran nationality. No other form of restriction is allowed. Consequently, all Salvadorans possessing citizenship (aged 18) enjoy and exercise political rights in accordance with the Constitution and the laws of the Republic.

55. On the question whether the provisions of the Convention may be invoked, the following information is provided. In El Salvador, international treaties concluded with other States or with international bodies, once ratified by the Legislative Assembly, become the law of the Republic upon their entry into force in accordance with the treaty provisions and the provisions of the Constitution. They may therefore be invoked before the courts. It must be pointed out, however, that invocation of the provisions of a treaty does not form part of the juridical culture of El Salvador, which means that, in practice, litigants do not make specific reference to the Convention or to any treaty as the basis of their application to any jurisdictional organ, despite the fact that they may be cited as forming part of the law of the Republic. The Judicial Training College has been emphasizing this point in seminars and workshops for judicial officers.

56. With regard to punitive legislation, article 406 of the Criminal Code provides as follows: "Any person who publicly incites to disobedience of the law, to hatred or to collective violence against specific groups of persons or against institutions, shall, on the ground of incitement alone, be punishable with imprisonment for six months to one year".

57. In its international activities, El Salvador conforms strictly with the provisions of articles 1 and 2 of the Universal Declaration of Human Rights, as it believes that recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. In this connection, just as it joined in the collective United Nations action to condemn and isolate South Africa for its policy of racial segregation, El Salvador has also expressed its deep satisfaction at the change in attitude that has taken place in that country, which has led to the lifting of the sanctions imposed by the world organization and to South Africa's readmission to the United Nations system.

58. El Salvador wishes again to reiterate its determined support for and belief in respect for human dignity and, in this regard, to indicate that it will be guided in its action, both domestically and at the international level, by the principle that "any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous". It will therefore make a point of condemning any act that diminishes human dignity on such a basis and of implementing, at both the international and the national level, appropriate measures to prevent such acts, should the composition of its population in the future include ethnically different population groups and should any discrimination arise in the enjoyment and exercise of human rights.

59. In the light of the points mentioned in the preceding paragraph, reference is made, where relevant, to the reports of El Salvador concerning the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

60. In view of the fact that Salvadoran society does not have any problem of ethnic populations, the Government of El Salvador considers it irrelevant and unnecessary to refer to the operative part of the Convention and would appreciate learning the Committee's views concerning a reporting State which does not possess the features essential to full coverage in its periodic reports.